

1982 WL 189267 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 26, 1982

*1 Honorable Robert C. Lake, Jr.
Chairman
Senate Ethics Committee
Suite 205
Gressette Office Building
Columbia, South Carolina 29211

Dear Senator Lake:

I am in receipt of your recent request for an opinion on the question of whether or not Mr. T. Bruce Smith, II can run for the South Carolina Senate. Mr. Smith has been convicted in Federal Court of failure to keep certain records and selling guns to persons under the age of twenty-one (21).

You have attached a previous letter I had written to Representative DesChamps on whether or not Mr. Smith was eligible to run for a municipal office. The crime for which he was convicted did not come within the South Carolina disenfranchising statutes so our Office issued the opinion that he could run for office. Since that time the disenfranchisement law has been changed. Presently a person is disenfranchised under [Section 7-5-120\(5\)\(b\) of the South Carolina Code of Laws, 1976](#), as amended, upon conviction of a felony, for the time of service of that conviction including probation or parole, unless sooner pardoned.

Felony is defined in [18 U.S.C.A. § 1\(1\)](#) as '[a]ny offense punishable by death or imprisonment for a term exceeding one year . . .'. Mr. Smith was convicted under the penalty provisions of [18 U.S.C.A. § 924\(a\)](#) which provides for a fine of '. . . not more than 5,000, or imprisoned not more than five years, or both. . .'

In Mr. Jennings letter to Senator McDonald he states that his client, Mr. Smith, was sentenced to a fine of \$7,500.00 and three years probation. He has further stated that the fine has been paid and the probation period concluded.

If this information is correct, he has served his probation time and if there is no further outstanding probation time, he would not be disenfranchised under [Section 7-5-120\(5\)\(b\)](#). Therefore, the disenfranchising statute would not prohibit him from being a candidate.

Sincerely,

Treva G. Ashworth
Senior Assistant Attorney General

ATTACHMENT

P.S. I have talked to Mr. Terry Thrasher of the U. S. Probation Office and have been informed that Mr. Smith has served his probation period and there is no outstanding parole. The Election Commission informs us that they do not have a record of his being registered to vote. TGA TA

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